

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FREDDY U MARTINEZ,

No. C-13-04197 DMR

Plaintiff(s),

**ORDER TERMINATING MOTION TO
AMEND [DOCKET NO. 69] AND
VACATING HEARING ON MOTION
FOR REMAND [DOCKET NO. 73]**

v.

CITY AND COUNTY OF SAN FRANCISCO,

Defendant(s).

TO ALL PARTIES AND COUNSEL OF RECORD:

The court has received (1) Plaintiff's Motion to Amend Complaint [Docket No. 69] and (2) Plaintiff's "Motion to Withdraw Amended Complaint and Request Remand to State Court" [Docket No. 73]. The court construes Plaintiff's second motion as a motion to remand and a withdrawal of the first motion, as Plaintiff no longer seeks to amend his complaint to add a named defendant. *See* Civil Local Rule 7-7(e) ("Within the time for filing and serving a reply, the moving party may file and serve a notice of withdrawal of the motion."). Accordingly, the court will terminate Plaintiff's Motion to Amend Complaint.

The court also notes that the hearing date on Docket No. 73 was improperly noticed per Civil Local Rule 7-2(a), which requires that "all motions must be . . . noticed in writing on the motion calendar of the assigned Judge for hearing not less than 35 days after filing of the motion." The December 11, 2014 hearing date on Docket No. 73 is hereby **VACATED**. An opposition or

1 statement of non-opposition to that motion must be filed by **December 10, 2014**, and any reply must
2 be filed by **December 17, 2014**. The court will set a date for a hearing on the motion if it
3 determines that oral argument is necessary for its resolution.

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5 IT IS SO ORDERED.

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7 Dated: December 2, 2014



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9 DONNA M. RYU
United States Magistrate Judge